

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Commission on Proprietary Education
(Amendment)

791 KAR 1:150. Bond requirements for agents and schools.

RELATES TO: KRS 165A.350(3)-(7), (10), 165A.360(2)-(5), (10)

STATUTORY AUTHORITY: KRS 165A.340(3), 165A.350(3), 165A.360(2), 165A.400

NECESSITY, FUNCTION, AND CONFORMITY: KRS 165A.340(3) and 165A.400 authorize the commission to promulgate administrative regulations to administer the provisions of KRS 165A.310-165A.390, including establishment of fees and other charges. KRS 165A.350 requires all proprietary schools to maintain a surety bond for the agents and the schools. KRS 165A.360(2) sets forth the range of bonding requirements for agents and schools and requires the commission to establish the bond amounts. This administrative regulation sets the surety bond requirements to be maintained on agents and schools.

Section 1. Surety Bond. (1) A school shall:

(a) Complete School Surety Bond Form PE-26; and

(b) Maintain a school surety bond in the amount of \$20,000.

(2) In lieu of the school surety bond, the commission shall accept an irrevocable letter of credit made in favor of the Kentucky Commission on Proprietary Education from a verifiable licensed financial institution in the amount of \$20,000, or other types of collateral as approved by the commission.

Section 2. Agent Surety Bond. (1) A school shall:

(a) In accordance with KRS 165A.350(3) maintain an agent surety bond, or in the case of multiple agents, maintain a blanket agent surety bond, in the amount of \$5,000 for each agent employed by the school; and

(b) Complete Form PE-27, Blanket Agent Surety Bond.

(2) In lieu of the agent surety bond, the commission shall accept an irrevocable letter of credit made in favor of the Kentucky Commission on Proprietary Education from a licensed financial institution equal to the amount specified above, ~~[made in favor of the Kentucky Commission on Proprietary Education]~~ or other types of collateral as approved by the commission.

Section 3. Multiple School Campuses. (1) Each school campus for any school residing in and doing business in Kentucky for licensing and bonding purposes shall be considered a separate school and shall be required to provide a separate school surety bond and an agent surety bond.

(2) Each nonresidential school doing business in Kentucky shall be required to provide a school surety bond and an agent surety bond.

Section 4. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "School Surety Bond", Form PE-26, 2017 edition; and

(b) "Blanket Agent Surety Bond", Form PE-27, 2017 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Commission on Proprietary Education, 500 Mero Street ~~[300 Sewer Boulevard]~~, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

MISTY N. EDWARDS, Executive Director

For DAVID W. FLOYD, Chair

APPROVED BY AGENCY: August 4, 2021

FILED WITH LRC: August 4, 2021 at 11:10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 25, 2021, at 1:00 p.m. Eastern Time, at the Mayo-Underwood Building Hearing Room, 500 Mero Street, 1st Floor, Frankfort, KY. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. on October 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Misty Edwards, Executive Director, Kentucky Commission on Proprietary Education, 500 Mero Street, 4th Floor, Frankfort, Kentucky 40601-1957, phone 502-564-4185, email kcpe@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Misty Edward

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation (791 KAR 1:150) sets the surety bond requirements to be maintained on agents and schools.

(b) The necessity of this administrative regulation: This administrative regulation (791 KAR 1:150) sets the surety bond requirements to be maintained on agents and schools.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The statute requires the commission to promulgate administrative regulations regarding surety bond requirements on agents and schools.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation outlines the surety bond requirements of agents and schools.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment simply is for clarification and aligns with the language used in KRS 165A.

(b) The necessity of the amendment to this administrative regulation: This regulation amendment aligns better with KRS 165A.

(c) How the amendment conforms to the content of the authorizing statutes: The statute requires the commission to promulgate administrative regulations regarding surety bond requirements on agents and schools.

(d) How the amendment will assist in the effective administration of the statutes: The regulation amendment simply aligns with the language used in KRS 165A.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Kentucky Commission on Proprietary

tary Education, the licensed driver training schools, and any proprietary school requiring licensure pursuant to KRS 165A.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: This amendment simply allows for the use of consistent language.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There is not a cost increase associated with the proposed amendment.

(c) As a result of compliance, what benefits will accrue to the entities: This amendment simply allows for the use of consistent language.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There will be no costs to the commission associated with the implementation of this amendment.

(b) On a continuing basis: There will be no costs to the commission associated with the implementation of this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The commission is funded entirely through fees paid by licensed schools.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The amendment to this administrative regulation will not require an increase in fees.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The amendment to this administrative regulation will not require an increase in fees.

(9) TIERING: Is tiering applied? Tiering is not applied because there is no change to the fee or application structure.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Commission on Proprietary Education and proprietary schools.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 165A, KRS 165A.340(3), 165A.350(3), 165A.360(2), 165A.400.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amended administrative regulation will not generate any new revenue for the commission.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amended administrative regulation will not generate any new revenue for the commission.

(c) How much will it cost to administer this program for the first year? There will not be a cost increase associated with the amendments to this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? Future costs will remain unchanged related to this amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): There is no known effect on current revenues.

Expenditures (+/-): There is no known effect on current expenditures.

Other Explanation: There is no fiscal impact associated with this amendment.